

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

NATIONSTAR MORTGAGE LLC

Plaintiff,

v.

**5:16-CV-280
(FJS/TWD)**

**JOHN J. LAFFREY, KATHRYN A.
LAFFREY, and AMALGAMATED BANK,**

Defendants.

APPEARANCES

OF COUNSEL

GROSS POLOWY LLC
1775 Wehrle Drive, Suite 100
Williamsville, New York 14221
- and -
900 Merchants Concourse
Suite 412
Westbury, New York 11590
Attorneys for Plaintiff

**AMY E. POLOWY, ESQ.
STEPHEN J. VARGAS, ESQ.**

JOHN J. LAFFREY
Defendant

NO APPEARANCE

KATHRYN A. LAFFREY
Defendant

NO APPEARANCE

SHAPIRO, DICARO & BARAK, LLC
175 Mile Crossing Boulevard
Rochester, New York 14624
Attorneys for Defendant Amalgamated
Bank

ELLIS M. OSTER, ESQ.

SCULLIN, Senior Judge

ORDER

Pending before the Court is Plaintiff's motion to dismiss the complaint voluntarily pursuant

to Rule 41(a) of the Federal Rules of Civil Procedure, vacate the Judgment of Foreclosure and Sale pursuant to Rule 60(b) of the Federal Rules of Civil Procedure, and cancel the Notice of Pendency pursuant to New York Civil Practice Law and Rules § 6514(a). *See* Dkt. No. 20.

Plaintiff commenced this action on March 8, 2016. *See* Dkt. No. 1. Although Plaintiff properly served Defendants, they failed to answer, appear or move with respect to the complaint. Thereafter, on April 21, 2016, Plaintiff moved for entry of a Notice of Default, *see* Dkt. No. 10, which the Clerk of the Court entered on April 26, 2016, *see* Dkt. No. 11. On February 7, 2017, this Court granted Plaintiff's motion for an Order and Judgment of Foreclosure and Sale pursuant to New York Real Property Actions and Procedures Law § 1351. *See* Dkt. No. 16. Subsequently, Plaintiff and Defendants settled this action through a "deed in lieu of foreclosure." *See* Dkt. No. 20-1 at ¶ 3.

In light of this settlement, the Court hereby

ORDERS that Plaintiff's motion is **GRANTED**; and the Court further

ORDERS that the Judgment of Foreclosure and Sale entered on February 7, 2017, *see* Dkt. No. 16, is **VACATED** pursuant to Rule 60(b) of the Federal Rules of Civil Procedure; and the Court further

ORDERS that the Referee, Thomas Robertson, Esq., whom the Court appointed to sell the property, pursuant to the Order and Judgment of Foreclosure and Sale is **DISCHARGED and relieved of any and all obligations and requirements thereunder**; and the Court further

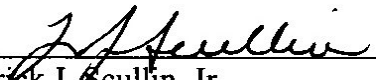
ORDERS that this action is voluntarily **DISMISSED** pursuant to Rule 41 of the Federal Rules of Civil Procedure; and the Court further

ORDERS that, pursuant to New York Civil Practice Law and Rules § 6514(a), the County

Clerk of the County of Onondaga is **DIRECTED**, upon the payment of proper fees, if any, to cancel and discharge the Notice of Pendency filed in the Office of the Clerk of the County of Onondaga on March 16, 2016, and in the Office of the Clerk of the United States District Court, Northern District of New York, on March 28, 2016, and any other filing against property known as **8453 Transit Lane, Baldwinsville, New York 13027**, and said Clerk is hereby **DIRECTED** to enter upon the margin of the record of the same a Notice of Cancellation referring to this Order.

IT IS SO ORDERED.

Dated: March 27, 2017
Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Judge